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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.														
10/517,407	12/04/2004	Nimrod Gal-Oz	18481-005	4031														
7590 Sonia K. Guterman, Esq. Lawson & Weitzen, LLP Suite 345 88 Black Falcon Avenue Boston, MA 02210-2414		02/06/2008	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">HICKS, CHARLES N</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>2623</td><td></td></tr><tr><td colspan="2"><table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>02/06/2008</td><td>PAPER</td></tr></table></td></tr></table>		EXAMINER		HICKS, CHARLES N		ART UNIT	PAPER NUMBER	2623		<table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>02/06/2008</td><td>PAPER</td></tr></table>		MAIL DATE	DELIVERY MODE	02/06/2008	PAPER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,407

Applicant(s)

GAL-OZ, NIMROD

Examiner

Charles N. Hicks

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/04/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 17-33 are rejected under 35 U.S.C. 102(e) as being anticipated by

Bornstein (US 2008/0008089 A1), hereinafter referred to as Bornstein.

3. Regarding claim 17, Bornstein discloses a method for selecting optimized transmission path in a television distribution network, the method comprising the steps of:

receiving information relating to data to be transmitted to at least one set-top box, said information comprising metadata related to said data to be transmitted and an identification of said at least one set-top box (**fig. 1, pg. 3, paragraph 32**);

building a list of available transmission paths for the said set-top box (**fig. 1, pg. 3, paragraph 33**);

and selecting an optimal transmission path based on said list and said metadata (**fig. 1, pg. 3, paragraph 33**);

and, transmitting the data to the set-top box using said selected transmission path (**fig. 1, pg. 3, paragraph 33**).

4. Regarding claim 18, Bornstein discloses the method wherein said metadata comprises information selected from a list consisting of: type of data to be transmitted, type of application that generated the data, type of application to receive the data, latency constraints of the data, or a combination thereof (**fig. 1, pg. 3, paragraph 32**).

5. Regarding claim 19, Bornstein discloses the method wherein said step of building further comprises the step of retrieving information related to said set-top box from a database (**fig. 1, pg. 3, paragraph 30**).

6. Regarding claim 20, Bornstein discloses the method wherein the retrieved information comprises information on available transmission paths and capabilities of the set-top box (**fig. 1, pg. 3, paragraph 30**).

7. Regarding claim 21-23, Bornstein discloses the method further comprising the step of querying the set-top box to obtain data indicative of available transmission paths thereto (**fig. 1, pg. 3, paragraph 30**).

8. Regarding claim 24, Bornstein discloses the method further comprising the step of getting information relating to network load and creating said list in accordance with the obtained load information (**fig. 4-5, pg. 4, paragraph 37**).

9. Regarding claim 25, Bornstein discloses the method wherein said step of selection is facilitated by a policy (**fig. 3-4, pg. 4, paragraph 36**).

10. Regarding claim 26, Bornstein discloses the method wherein said policy is modifiable (**fig. 3-4, pg. 4, paragraph 36**).

11. Regarding claim 27, Bornstein discloses a method wherein said step of building further comprises the step of retrieving information relating to load conditions in said distribution system, and wherein said list is constructed in accordance with said load conditions (**fig. 1, pg. 3, paragraph 33**).

12. Regarding claim 28, Bornstein discloses an apparatus for selecting optimized transmission in a television distribution network having a headend and a plurality of set-top boxes, the apparatus comprises:

a list creator, adapted to create a list of available transmission paths from the headend to a specified set-top box, or a group of specified set-top boxes (**fig. 1-2, pg. 3, paragraph 33**);

and, a data route selector, adapted to automatically select the best applicable transmission path from said list for transmitting based on a policy applied to the combination of at least a data type to be transmitted and said list (**fig. 1-2, pg. 3, paragraph 34**).

13. Regarding claim 29, Bornstein discloses an apparatus wherein said list creator further comprises an information retriever module adapted for querying a data base for information regarding said set-top box capabilities and transmission paths available thereto (**fig. 1, pg. 3, paragraph 30**).

14. Regarding claim 30, Bornstein discloses an apparatus wherein said information retriever module is further adapted to query said set-top box for information on available transmission paths available thereto, or its capabilities, or a combination thereof (**fig. 1, pg. 3, paragraphs 30-32**).

15. Regarding claim 31, Bornstein discloses an apparatus wherein said list creator further comprises an information retriever module adapted to query said set-top box for information on available transmission paths and capabilities of said set-top box (**fig. 1-2, pg. 3, paragraphs 33-34**).

16. Regarding claim 32, Bornstein discloses an apparatus wherein said list creator is further adapted for retrieving information relating to network load and creating said list in accordance with the load information (**fig. 1-2, pg. 3, paragraphs 33-34**).

17. Regarding claim 33, Bornstein discloses an apparatus wherein said list creator is further adapted to retrieve information relating to load conditions of said distribution network, and utilize said information in creating said list (**fig. 1-2, pg. 3, paragraphs 33-34**).

Claim Rejections - 35 USC § 112

18. Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim depends on a canceled claim.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Urdang (US 2007/0083902 A1) discloses a technique for delivering content in a communications network. Puente (US 2003/0033606 A1) discloses a streaming media system. Swart (US 2003/0028884 A1) discloses a video content availability system.

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Art Unit: 2623

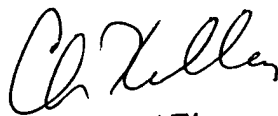
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Hicks whose telephone number is 571-272-3010. The examiner can normally be reached on M-F 7:30AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNH


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